

Senate Study Bill 1165 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SMITH)

A BILL FOR

1 An Act relating to the regulation by counties and cities of
2 continuing nonconforming uses of manufactured, modular, and
3 mobile homes and site-built dwelling units.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 335.3, subsection 2, Code 2021, is
2 amended to read as follows:

3 2. a. ~~When~~ Except as provided in paragraph "b", when there
4 is a replacement of a preexisting manufactured, modular, or
5 mobile home with ~~another~~ any other manufactured, modular, or
6 mobile home containing no more than the original number of
7 dwelling units, or a replacement of a preexisting site-built
8 dwelling unit with a manufactured, modular, or mobile home or
9 site-built dwelling unit, within a manufactured home community
10 or a mobile home park, the board of supervisors shall not adopt
11 or enforce any ordinance, regulation, or restriction, or impose
12 any conditions on the replacement home that were not required
13 of the preexisting home, that would prevent the continuance of
14 the property owner's lawful nonconforming use that had existed
15 relating to the preexisting home ~~unless any of the following~~
16 ~~apply.~~

17 b. Paragraph "a" does not apply if any of the following
18 conditions exist:

19 a. (1) ~~A discontinuance is necessary for~~ The replacement of
20 the particular home would result in an increased risk to the
21 safety of life or property.

22 b. (2) The property owner has voluntarily discontinued
23 and abandoned the nonconforming use ~~has been discontinued~~
24 for the period of time established by ordinance, unless such
25 discontinuance is caused by circumstances outside the control
26 of the property owner. The period of time so established shall
27 be not less than one year. For purposes of this subparagraph,
28 circumstances outside the control of the property owner
29 include floods, fires, destructive thunderstorm events such
30 as derechos and tornadoes, and similar catastrophic events
31 causing widespread or localized severe property damage. For
32 purposes of this subparagraph, a property owner shall not be
33 considered to have voluntarily discontinued and abandoned the
34 nonconforming use if the property owner demonstrates that the
35 applicable home site continues to be available for use as a

1 home site for a replacement home.

2 ~~c.~~ (3) The replacement results in the overall nature and
3 character of the present use being substantially or entirely
4 different from the original lawful preexisting nonconforming
5 use.

6 ~~d.~~ (4) The replacement results in an obstruction to a
7 shared driveway or shared sidewalk providing vehicular or
8 pedestrian access to other homes and uses unless the property
9 owner makes modifications to such shared driveway or sidewalk
10 that extinguishes such obstruction or the effects of such
11 obstruction.

12 Sec. 2. Section 414.1, subsection 1, paragraph c, Code 2021,
13 is amended to read as follows:

14 c. (1) ~~When~~ Except as provided in subparagraph (2), when
15 there is a replacement of a preexisting manufactured, modular,
16 or mobile home with ~~another~~ any other manufactured, modular,
17 or mobile home containing no more than the original number of
18 dwelling units, or a replacement of a preexisting site-built
19 dwelling unit with a manufactured, modular, or mobile home or
20 site-built dwelling unit, within a manufactured home community
21 or a mobile home park, the city shall not adopt or enforce
22 any ordinance, regulation, or restriction, or impose any
23 conditions on the replacement home that were not required of
24 the preexisting home, that would prevent the continuance of
25 the property owner's lawful nonconforming use that had existed
26 relating to the preexisting home ~~unless any of the following~~
27 ~~apply.~~

28 (2) Subparagraph 1 does not apply if any of the following
29 conditions exist:

30 ~~{1}~~ (a) ~~A discontinuance is necessary for~~ The replacement
31 of the particular home would result in an increased risk to the
32 safety of life or property.

33 ~~{2}~~ (b) The property owner has voluntarily discontinued
34 and abandoned the nonconforming use ~~has been discontinued~~
35 for the period of time established by ordinance, unless such

1 discontinuance is caused by circumstances outside the control
2 of the property owner. The period of time so established shall
3 be not less than one year. For purposes of this subparagraph
4 division, circumstances outside the control of the property
5 owner include floods, fires, destructive thunderstorm events
6 such as derechos and tornadoes, and similar catastrophic events
7 causing widespread or localized severe property damage. For
8 purposes of this subparagraph division, a property owner
9 shall not be considered to have voluntarily discontinued
10 and abandoned the nonconforming use if the property owner
11 demonstrates that the applicable home site continues to be
12 available for use as a home site for a replacement home.

13 ~~(3)~~ (c) The replacement results in the overall nature and
14 character of the present use being substantially or entirely
15 different from the original lawful preexisting nonconforming
16 use.

17 ~~(4)~~ (d) The replacement results in an obstruction to a
18 shared driveway or shared sidewalk providing vehicular or
19 pedestrian access to other homes and uses unless the property
20 owner makes modifications to such shared driveway or sidewalk
21 that extinguishes such obstruction or the effects of such
22 obstruction.

EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the regulation by counties and cities
27 of continuing nonconforming uses of manufactured, modular, and
28 mobile homes and site-built dwelling units.

29 Current law prohibits a county or city from adopting
30 or enforcing any ordinance, regulation, or restriction
31 that would prevent the continuance of a property owner's
32 lawful nonconforming use that had existed for a preexisting
33 manufactured, modular, or mobile home that is being replaced
34 by another manufactured, modular, or mobile home containing
35 no more than the original number of dwelling units, or a

1 preexisting site-built dwelling unit that is being replaced
2 with a manufactured, modular, or mobile home or site-built
3 dwelling unit, within a manufactured home community or a mobile
4 home park. In addition to the current prohibitions, the bill
5 prohibits a county or city from imposing any conditions on the
6 replacement home that were not required of the preexisting home
7 that would prevent the continuance of a lawful nonconforming
8 use.

9 Current law provides four exceptions to the prohibitions,
10 two of which the bill amends. One exception is if a
11 discontinuance is necessary for the safety of life or property.
12 The bill instead states that the prohibitions do not apply
13 if the replacement of a particular home would result in an
14 increased risk to the safety of life or property.

15 The second exception is if the nonconforming use has been
16 discontinued for the period of time established by ordinance,
17 unless such discontinuance is caused by circumstances outside
18 the control of the property owner. The bill specifies that
19 this exception applies if the property owner has voluntarily
20 discontinued and abandoned the nonconforming use. The bill
21 provides examples for when a discontinuance is caused by
22 circumstances outside the control of the property owner.
23 The bill also states that a property owner shall not be
24 considered to have voluntarily discontinued and abandoned the
25 nonconforming use if the property owner demonstrates that the
26 applicable home site continues to be available for use as a
27 home site for a replacement home.